IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Or-Bach et al.

Title: System and Method for Consolidated Shipping and Receiving Using Reusable Containers

Serial No.: 09/524,060 Filed: 3/13/00

Examiner: Andrew J. Rudy Art Unit: 3627

Docket: Or-Bach2

Commissioner for Patents
P.O. Box 1450
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OFFICE ACTION RESPONSE

In the Office Action dated 11/19/03 the Examiner rejected claims 1-34 as obvious over Forster. Applicants respectfully traverse this rejection. Claim 1 recites:

> A method comprising:
>
> providing goods in reusable containers, said reusable containers having a radio frequency identification device attached thereto;
>
> establishing a relationship between a radio frequency identification device and a memory;
>
> providing said goods in said containers to customers;
>
> collecting said reusable containers from said customers; and
>
> identifying which customers have returned their reusable containers by electronically querying the radio frequency identification devices attached to the reusable containers.

Thus, one feature of this invention is that goods are provided in reusable containers to customers. The reusable containers are collected from the customers. The customers who have returned their reusable containers are identified by electronically querying a

radio frequency device attached to the container. Forster neither teaches nor suggests this invention.

Forster applies RFIDs to containers used so that the containers can be tracked within factories and distribution facilities. For example, he states:

> FIG. 3 illustrates a tracking system in which containers 30 containing transponders 20 can be tracked through an environment such as factory or distribution facility. For example, the transponder 20 connected to container 30 could pass a first interrogation point 150 that includes an interrogation reader 120. When the container 30 and its transponder 20 is in the presence of the interrogation reader 120 as described previously, a message containing information and /or a specific request for information may be transmitted by the interrogation reader 120 and received by the transponder 20. This process continues as the container 30 moves to a second interrogation point 152, a third interrogation point 154, a fourth interrogation point 156, and on to a last interrogation point 158.

Forster col. 3, line 66-col. 4, line 12. Clearly, these interrogation points are all within a factory or distribution center.

At col. 1, lines 13-40, Forster states:

> It is often necessary to monitor the location and movement of materials **within a distribution center or manufacturing facility**. One method of tracking the materials is to attach a ... RFID ... to containers that are housing the materials. By way of example, a liquid container such as a bottle or keg may include an identification device indicative of the liquid or contents inside. An interrogation reader, or series of receivers, having an antenna device and able to send information remotely through electronic signals, **is placed throughout the distribution or manufacturing facility** to receive signals transmitted from the identification devices. The signals are then passed to a central control system that monitors and records the applicable information. The central control system can also send information to its interrogation readers to send the transponders for response and/or to be stored in the transponder's memory.
>
> The identification system also allows for statistical analysis of the materials to maintain an accurate inventory, production flow rates, and other production standards. Additionally, the identification devices may include specific information about the materials housed within the containers, including date of manufacture, place of manufacture, type of product within the container, the temperature of the container and ambient air, the temperature of the contents of the container, the pressure of the container, etc.

(Emphasis added.) Again, it is clear that Forster is concerned with tracking a container within a manufacturing or distribution facility. See also col. 1, lines 13-25. Thus, Forster is similar to the Radican reference, already cited and distinguished from the present application. (Radican discusses using RFIDs to monitor the position of containers within a factory. As explained in the amendment dated 3/30/03, this neither teaches nor suggests the claimed invention. Applicants note that the Examiner has withdrawn the rejection based on Radican. The rejection in light of Forster should likewise be withdrawn.)

The Office Action states:

> Forster does not explicitly disclose collecting the reusable containers from customers.
>
> However, Forster does disclose the tracking of a location of the containers 30, e.g. col. 4, lines 13-33, not limited to a factory or distribution facility. It is noted that the returning and tracking of beer kegs to a common collection point is well known in the art. To have provided tracking the reusable containers from customers for Forster would have been obvious to one of ordinary skill in the art.

Office Action, pages 2-3. Applicants traverse this rejection. The passage cited by the Examiner states:

> A central control system 130 maintains the information from the interrogation readers 120 **and monitors the movement of the containers 30 through the facility.** The information received by each of the interrogation readers 120 may be forwarded to the central control system 130 either through direct wire or LAN connection. The central control system 130 could also send information to the interrogation reader 120 to be transmitted to the transponder 20 for identification purposes. The central control system 130 tracks the expected location of the containers 30 and may be alerted if it expects to receive information about a particular container and does not.

This passage confirms that Forster merely tracks a container as it passes through a factory or distribution center. Therefore, the characterization of Forster set forth in the Office Action is incorrect.

In order for a reference to render obvious an invention, **all** claim limitations must be taught or suggest by the reference. MPEP §2143.03. Nowhere does Forster teach or suggest electronically querying RFIDs upon the return of containers to track the return of containers from the customers. Thus, claim 1 patentably distinguishes over Forster. The other claims distinguish over Forster for similar reasons.

The Office Action argues that "the returning and tracking of beer kegs to a common collection point is well known in the art. To have provided tracking the reusable containers from customers for Forster would have been obvious to one of ordinary skill in the art." Office Action, page 3. This is incorrect. Forster was specifically interested in tracking beer kegs through a manufacturing and distributing facility. See the above-cited passages. Despite the fact that Forster monitors beer kegs as they pass within his manufacturing and distribution facility, it never occurred to Forster to monitor the return of empty kegs from users with an RFID. Therefore, Forster itself demonstrates that the claimed invention is not obvious in light of Forster.

Applicants stress that an invention can only be obvious if the claim limitations are all suggested in the prior art. Since such a suggestion simply does not exist, the claims cannot be obvious.

Claim 4 recites "storing in said memory an identification of the customer to whom said container is provided." Forster does not suggest doing this. Therefore, the

law mandates that claim 4 distinguishes over Forster. Claim 14 similarly distinguishes over Forster.

Claim 5 recites:

> receiving orders from customers, said orders being for goods from a plurality of vendors, said orders being communicated to each of said vendors;
>
> collecting said goods from said plurality of vendors at a central location;
>
> providing said goods in said reusable containers;
>
> informing said customers when said goods will be available for pickup; and
>
> making said goods available for pickup by said customers, wherein said goods are in said reusable containers.

Forster has nothing to do with the invention of claim 5, and thus claim 5 should be allowed. (Applicants note that the Office Action does not even purport to show where the limitations of claim 5 can be found in the prior art.)

Applicants' claim 6 recites:

> Method of claim 5 wherein said customers return said reusable containers to a central collection point, said method further comprising querying the radio frequency identification devices within said containers when said customers return said containers to said collection point.

Again, Forster does not teach or suggest providing reusable containers to customers, having the customers return the reusable containers, and querying the RFIDs when the customers return the containers. Therefore, Forster could not possibly render claim 6 unpatentable.

Claim 9 recites:

> System of claim 8 wherein a computerized billing system is electronically coupled to the memory so that a customer can be billed if that customer does not return the reusable container.

Forster does not teach or suggest a billing system. Therefore, claim 9 could not possibly be obvious in light of Forster.

Claim 15 requires machine readable indicia which "comprises a bar code or a magnetic strip." Forster neither teaches nor suggests this limitation.

Claim 18 requires "collecting information on the purchasing habits of said customers; and offering a reduction of shipping cost in exchange for allowing targeted advertisement to be added to the reusable containers." Forster neither teaches nor suggests this limitation.

Claims 25-28 require that the radio frequency identification device "is provided in a compartment within said container." The Office Action fails to indicate where Foster discloses this limitation. Therefore these claims should be allowed.

CONCLUSION

As claims 1-34 distinguish over Forster, Applicants earnestly request that the application be allowed. If the Examiner's next action is other than allowance, the Examiner is respectfully requested to telephone Applicants' attorney at (408) 732-9500 to discuss this matter.

Respectfully submitted,

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Pursuant to rule 37 CFR 1.8, Applicant's attorney hereby certifies that this document is being sent by first class mail, with sufficient postage, to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on 2/6, 2004.

Signature

2/6, 2004
Date